IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Court No.3

Criminal Revision No. 182/ 2003

Smt. Shambhawi Devi ..Revisionist.

Vs.

Chandra Shekhar Bangwal ..Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Ramji Srivastava learned counsel for revisionist and Sri I.P.Gairola learned counsel for the respondent.

2- This is a revision under section 19(4) of the Family Courts Act against the impugned judgment dated 13-10-2003 whereby the learned Principal Judge, Family Court, Dehradun while allowing the application under section 125 of the Code of Criminal Procedure (for short 'Code') of the revisionist awarded maintenance at the rage of Rs. 500/- per month only.

3- The learned counsel for the revisionist submitted that the quantum of maintenance allowance is very low considering the fact that the respondent-husband is a post graduate and is employed as a teacher in an Inter College. This aspect had been considered by the learned Principal Judge and a finding was recorded that the husband was getting only a sum of Rs. 1,500/- as honorarium while working on contract basis in the institution named as Sri Bharat Mandir Inter College. The learned counsel for the respondent has also today shown the certificate of the Principal of the said College indicating that the respondent is being engaged only on temporary basis on payment of premimum at the rate of Rs. 50/- per lecture subject to maximum of Rs. 1,500/- only in month. Considering this aspect of the matter it can not be said that the learned Principal Judge did not appraise the evidence properly.

4- The submission may also be looked at by another angle. The revisionist-wife is shown to have been running a beauty parlour and is earning from her engagement in this self-employed profession. The learned counsel for the respondent-husband has also produced today the original merit certificate of the petitioner which was issued on 14.5.1999 by some institution. This shows that she had received the required training in beauty therapy and since the evidence was adduced to the effect that she is being engaged in said

profession, the learned Principal Judge did not commit any error in coming to the conclusion that the wife has also her own source of income. The question as to what is the quantum of the income need not be considered at this stage because it has been found that the husband himself is getting honorarium of Rs. 1,500/- per month only.

5- In view of above and the material on record the learned Principal Judge, Family Court has not committed any error in the appreciation of the evidence and considering this it can not be said that the maintenance allowance should have been awarded at much higher rate.

6- At the time of the argument learned counsel for the respondent submitted that since the respondent-husband is working on contract basis or on temporary basis there is likelihood that he would soon be regularized . As and when if it so, happen the revisionist-wife may move a proper application under section 127 of the 'Code' for enhancement of the maintenance allowance.

7- For the above reasons the revision is devoid of merit and is dismissed.

(Irshad Hussain, J.)

Dated: 18-11-2003

ISB